

STATE PERSONNEL BOARD CALENDAR



AUGUST 7, 2007

PASADENA

State of California

Memorandum

DATE: July 27, 2007

TO: ALL INTERESTED PARTIES

FROM: STATE PERSONNEL BOARD – Executive Office

SUBJECT: Notice and Agenda for the **August 7, 2007**, meeting of the State Personnel Board.

PLEASE TAKE NOTICE that on August 7, 2007, at offices of the **Sheraton Pasadena Hotel, located at 303 E. Cordova Street – Cypress Room, Pasadena, California 91101**, the State Personnel Board will hold its regularly scheduled meeting. Pursuant to Government Code section 11123, a teleconference location may be conducted for this meeting at 320 W. 4th Street, Los Angeles, California.

The attached Agenda provides a brief description of each item to be considered and lists the date and approximate time for discussion of the item.

Also noted is whether the item will be considered in closed or public session. Closed sessions are closed to members of the public. All discussions held in public sessions are open to those interested in attending. Interested members of the public who wish to address the Board on a public session item may request the opportunity to do so.

Should you wish to obtain a copy of any of the items considered in the public sessions for the August 7, 2007, meeting, please contact staff in the Secretariat's Office, State Personnel Board, 801 Capitol Mall, MS 52, Sacramento, California 95814 or by calling (916) 653-0429 or TDD (916) 654-2360, or the Internet at:

<http://www.spb.ca.gov/calendar.htm>

Should you have any questions regarding this Notice and Agenda, please contact staff in the Secretariat's Office at the address or telephone numbers above.

A handwritten signature in black ink, appearing to read 'Karen Yu', with a stylized flourish at the end.

Karen Yu
Secretariat's Office

Attachment



CALIFORNIA STATE PERSONNEL BOARD

801 Capitol Mall • Sacramento, California 95814 • www.spb.ca.gov

ARNOLD SCHWARZENEGGER, Governor



CALIFORNIA STATE PERSONNEL BOARD MEETING¹

801 Capitol Mall
Sacramento, California

Public Session Location –
Sheraton Pasadena Hotel
303 E. Cordova Street
Cypress Room
Pasadena, CA 91101

Teleconference – 320 West 4th Street²
Los Angeles, California, Suite 620

Closed Session Location –
Sheraton Pasadena Hotel
303 E. Cordova Street
Cypress Room
Pasadena, CA 91101
Teleconference – 320 West 4th Street
Los Angeles, California Suite 620

FULL BOARD MEETING – AUGUST 7, 2007

¹ Sign Language Interpreter will be provided for Board Meeting upon request - contact Secretariat at (916) 653-0429, or CALNET 453-0429, TDD (916) 654-2360.

²Pursuant to Government Code section 11123, a teleconference location may be conducted for this meeting at 320 West 4th Street, Los Angeles, California.

FULL BOARD MEETING AGENDA³

AUGUST 7, 2007
9:00 a.m. – 12:15 p.m.
(or upon completion of business)

PLEASE NOTE: ALL TIMES ARE APPROXIMATE AND ARE SUBJECT TO CHANGE

PUBLIC SESSION OF THE STATE PERSONNEL BOARD

(9:00 a.m. – 9:30 a.m.)

- 1. ROLL CALL**
- 2. REPORT OF THE EXECUTIVE OFFICER – Suzanne M. Ambrose**
- 3. REPORT OF THE CHIEF COUNSEL – Elise Rose**
- 4. NEW BUSINESS**

Items may be raised by Board Members for scheduling and discussion for future meetings.

- 5. REPORT ON LEGISLATION – Sherry Evans**

The Board may be asked to adopt a position with respect to the bills listed on the legislation memorandum attached hereto.

(9:30 a.m. – 10:00 a.m.)

- 6. ORAL ARGUMENT**

In the matter of **CASE NO. 06-3023A**. Appeal from ten percent reduction in salary for three months. Psychiatric Technician. Department of Corrections and Rehabilitation.

³ The Agenda for the Board Meetings can be obtained at the following internet address:
<http://www.spb.ca.gov/calendar.htm>

(10:00 a.m. – 10:30 a.m.)

7. ORAL ARGUMENT

In the matter of **CASE NO. 06-1338A**. Appeal from rejection during probation.
Industrial Relations Counsel III (Specialist). Department of Industrial Relations.

CLOSED SESSION OF THE STATE PERSONNEL BOARD

(10:30 a.m. – 10:45 a.m.)

**8. EMPLOYEE APPOINTMENTS, DISCIPLINARY MATTERS, AND
OTHER APPEALS**

Deliberations to consider matter submitted at prior hearing.
[Government Code Sections 11126(d), 18653.]

PUBLIC SESSION OF THE STATE PERSONNEL BOARD

(10:45 a.m. – 11:15 a.m.)

9. ORAL ARGUMENT

In the matter of **CASE NO. 06-2010A**. Appeal from medical termination.
Administrative Support Coordinator II. California State University, Los Angeles.

CLOSED SESSION OF THE STATE PERSONNEL BOARD

(11:15 a.m. – 11:45 a.m.)

**10. EMPLOYEE APPOINTMENTS, DISCIPLINARY MATTERS, AND
OTHER APPEALS**

Deliberations to consider matter submitted at prior hearing.
[Government Code Sections 11126(d), 18653.]

11. DELIBERATION ON ADVERSE ACTIONS, DISCRIMINATION COMPLAINTS, AND OTHER PROPOSED DECISIONS SUBMITTED BY ADMINISTRATIVE LAW JUDGES

Deliberations on matters submitted at prior hearing; on proposed, rejected, remanded, and submitted decisions; petitions for rehearing; and other matters related to cases heard by administrative law judges of the State Personnel Board or by the Board itself. [Government Code Sections 11126 (c)(3), and 18653.]

12. PENDING LITIGATION

Conference with legal counsel to confer with and receive advice regarding pending litigation when discussion in open session would be prejudicial. [Government Code sections 11126(e)(1) and 18653.]

Patrick McCollum v. State of California
United States District Court, Northern District of California
Case No. C 04-03339 CRB

Plata, et al. v. Schwarzenegger, et al.
Case No. C01-1351 THE

Colocousis, et al. v. State Personnel Board, et al.
Sacramento Superior Court Case No. 07CS00461

13. RECOMMENDATIONS TO THE LEGISLATURE

Deliberations on recommendations to the legislature. [Government Code section 18653.]

14. RECOMMENDATIONS TO THE GOVERNOR

Deliberations on recommendations to the Governor. [Government Code section 18653.]

PUBLIC SESSION OF THE STATE PERSONNEL BOARD

(11:45 a.m. – Onwards)

15. DISCUSSION OF UPCOMING BOARD MEETING SCHEDULE OF SEPTEMBER 4-5, 2007, IN SACRAMENTO, CALIFORNIA

BOARD ACTIONS:

16. ADOPTION OF THE STATE PERSONNEL BOARD SUMMARY MINUTES OF JULY 10, 2007

17. **EVIDENTIARY CASES** - (See Case Listings on Pages 10–17)
18. **RESOLUTION EXTENDING TIME UNDER GOVERNMENT CODE SECTION 18671.1 EXTENSION** - (See Agenda on Pages 22–23)
19. **NON-EVIDENTIARY CASES** - (See Case Listings on Pages 17–19)
20. **NON-HEARING CALENDAR**

The following proposals are made to the State Personnel Board by either the Board staff or Department of Personnel Administration staff. It is anticipated that the Board will act on these proposals without a hearing.

Anyone with concerns or opposition to any of these proposals should submit a written notice to the Executive Officer clearly stating the nature of the concern or opposition. Such notice should explain how the issue in dispute is a merit employment matter within the Board's scope of authority as set forth in the State Civil Service Act (Government Code section 18500 et seq.) and Article VII, California Constitution. Matters within the Board's scope of authority include, but are not limited to, personnel selection, employee status, discrimination and affirmative action. Matters outside the Board's scope of authority include, but are not limited to, compensation, employee benefits, position allocation, and organization structure. Such notice must be received not later than close of business on the Wednesday before the Board meeting at which the proposal is scheduled. Such notice from an exclusive bargaining representative will not be entertained after this deadline, provided the representative has received advance notice of the classification proposal pursuant to the applicable memorandum of understanding. In investigating matters outlined above, the Executive Officer shall act as the Board's authorized representative and recommend the Board either act on the proposals as submitted without a hearing or schedule the items for a hearing, including a staff recommendation on resolution of the merit issues in dispute.

- A. **BOARD ITEMS PRESENTED BY STATE PERSONNEL BOARD OR DEPARTMENT OF PERSONNEL ADMINISTRATION TO ESTABLISH, REVISE OR ABOLISH CLASSIFICATIONS, ALTERNATE RANGE CRITERIA, ETC.**

NONE

- B. **ABOLISHMENT OF CLASSES THAT HAVE HAD NO INCUMBENTS FOR MORE THAN TWO YEARS. DEPARTMENTS THAT UTILIZE THE CLASS AS WELL AS THE APPROPRIATE UNION HAVE NO OBJECTION TO THE ABOLISHMENT OF THESE CLASSES.**

THE DEPARTMENT OF PERSONNEL ADMINISTRATION AND STATE PERSONNEL BOARD propose to abolish the following unused classifications, which have been vacant for more than twenty-four months. Departments that utilize the class as well as the appropriate union have no objection to the abolishment of these classes. When classes are proposed to be abolished which are part of a class series, and other classes within the series will continue to be used, the class specification is included in the board item.

NONE

21. STAFF CALENDAR ITEMS FOR BOARD INFORMATION

NONE

22. CAREER EXECUTIVE ASSIGNMENT (CEA) CATEGORY ACTIVITY

This section of the Agenda serves to inform interested individuals and departments of proposed and approved CEA position actions.

The first section lists position actions that have been proposed and are currently under consideration.

Any parties having concerns with the merits of a proposed CEA position action should submit their concerns in writing to the Classification and Compensation Division of the Department of Personnel Administration, the Merit Employment and Technical Resources Division of the State Personnel Board, and the department proposing the action.

To assure adequate time to consider objections to a CEA position action, issues should be presented immediately upon receipt of the State Personnel Board Agenda in which the proposed position action is noticed as being under consideration, and generally no later than a week to ten days after its publication.

In cases where a merit issue has been raised regarding a proposed CEA position action and the dispute cannot be resolved, a hearing before the five-member Board may be scheduled. If no merit issues are raised regarding a proposed CEA position action, and the State Personnel Board approves it, the action becomes effective without further action by the Board.

The second section of this portion of the Agenda reports those position actions that have been approved. They are effective as of the date they were approved by the Executive Officer of the State Personnel Board.

A. REQUESTS TO ESTABLISH NEW OR REVISE EXISTING CEA POSITIONS CURRENTLY UNDER CONSIDERATION

CHIEF, OFFICE OF PUBLIC AFFAIRS, DEPARTMENT OF CONSUMER AFFAIRS

The Department of Consumer Affairs proposes to allocate the above position to the CEA category. The Chief of Public Affairs has full responsibility to develop, organize, direct and evaluate a comprehensive communications program to inform the public and contractors of the activities and objectives of the Contractors State License Board.

DEPUTY DIRECTOR, REGIONAL WATER PLANNING AND MANAGEMENT, DEPARTMENT OF WATER RESOURCES

The Department of Water Resources proposes to allocate the above position to the CEA category. The Deputy Director of Regional Water Planning and Management will act for the director with primary responsibility for advising and assisting the Director in the formulation, revision, and implementation of policies and programs within the following areas of responsibility: the Division of Planning and Local Assistance, Office of Water Efficiency and Transfers, Resources Restoration and Project Support, Surface Storage Investigations, Conjunction Water Management, and Statewide Water Planning Branches. The Deputy Director will also provide policy guidance and advise Executive staff on the implications of proposed administrative actions and policies.

CHIEF, CONSULTING SERVICES DIVISION, STATE PERSONNEL BOARD

The State Personnel Board proposes to allocate the above position to the CEA category. The Chief, Consulting Services Division, serves in a policy and decision-making role, is a member of the Executive Management Team and represents SPB on all policy matters as it pertains to the following programs: the Medical Office, the Psychological Screening Program, the Office of Civil Rights, the Bilingual Services Program, the Certified Interpreter Program, the CEA and Board Item Unit, and the State Mediation Program.

CHIEF, 21ST CENTURY PROJECT, STATE PERSONNEL BOARD

The State Personnel Board proposes to allocate the above position to the CEA category. The Chief, 21st Century Project, will serve as the State Personnel Board's high-level staff advisor and representative on critical integration with the State Controller's Office 21st Century Project and Human Resources Modernization Project. Responsibilities include a high-level of expertise on critical policy and business needs related to the Board's jurisdiction and involvement.

B. EXECUTIVE OFFICER DECISIONS REGARDING REQUESTS TO ESTABLISH NEW OR REVISE EXISTING CEA POSITIONS

COUNSEL, MULTI-STATE TAX AFFAIRS

The Franchise Tax Board's proposal to allocate the above position to the CEA category has been approved for a period of two and a half years effective June 25, 2007.

STATEWIDE DENTAL DIRECTOR, CORRECTIONAL FACILITY

The Department of Corrections and Rehabilitation's proposal to allocate the above position to the CEA category has been approved effective June 25, 2007.

DEPUTY STATEWIDE DENTAL DIRECTOR, CORRECTIONAL FACILITY

The Department of Corrections and Rehabilitation's proposal to allocate the above position to the CEA category has been approved effective June 25, 2007.

REGIONAL DENTAL DIRECTOR

The Department of Corrections and Rehabilitation's proposal to allocate four positions to act as Regional Dental Directors to the CEA category has been approved effective June 25, 2007.

LAKE DAVIS PIKE ERADICATION PROJECT

The Department of Fish and Game's proposal to allocate the above position to the CEA category has been approved effective June 28, 2007.

BIOGRAPHIC DATA BRANCH

The Department of Fish and Game's proposal to allocate the above position to the CEA category has been approved effective June 28, 2007.

DEPUTY DIRECTOR, RESOURCES MANAGEMENT AND POLICY DIVISION

The Department of Fish and Game's proposal to re-allocate the existing CEA position titled Deputy Director Wildlife & Inland Fisheries Division to the above titled position has been approved effective June 28, 2007.

DEPUTY DIRECTOR, LAW ENFORCEMENT BRANCH

The Department of Fish and Game's proposal to re-allocate the existing CEA position titled Enforcement Branch to the above titled position has been approved effective June 28, 2007.

DEPUTY DIRECTOR, REGIONAL OPERATIONS DIVISION

The Department of Fish and Game's proposal to re-allocate the existing CEA position titled Deputy Director, Habitat Conservation Division to the above titled position has been approved effective June 28, 2007.

HABITAT CONSERVATION BRANCH

The Department of Fish and Game's proposal to re-allocate the existing CEA position titled Habitat Conservation Planning Branch to the above titled position has been approved effective June 28, 2007.

WATER BRANCH

The Department of Fish and Game's proposal to re-allocate the existing CEA position titled Operations to the above titled position has been approved effective June 28, 2007.

**ASSISTANT CHIEF COUNSEL, ADMINISTRATIVE LITIGATION,
DEPARTMENT OF HEALTH CARE SERVICES**

The Department of Health Care Service's proposal to allocate the above position to the CEA category has been approved effective July 17, 2007.

**ASSISTANT CHIEF COUNSEL, LICENSING & ENFORCEMENT AND
ADMINISTRATION LITIGATION, DEPARTMENT OF PUBLIC HEALTH**

The Department of Public Health's proposal to allocate the above position to the CEA category has been approved effective July 17, 2007.

**ASSISTANT CHIEF COUNSEL, CONTRACTS & PREVENTION,
DEPARTMENT OF PUBLIC HEALTH**

The Department of Public Health's proposal to allocate the above position to the CEA category has been approved effective July 17, 2007.

23. EMPLOYEE APPOINTMENTS, DISCIPLINARY MATTERS, & OTHER APPEALS

Deliberations to consider matter submitted at prior hearing. [Government Code sections 11126(d), 18653.]

24. WRITTEN STAFF REPORT FOR BOARD INFORMATION

25. PRESENTATION OF EMERGENCY ITEMS AS NECESSARY

26. BOARD ACTIONS ON SUBMITTED ITEMS – (See Agenda on Pages 20–21)

These items have been taken under submission by the State Personnel Board at a prior meeting and may be before the Board for a vote at this meeting. This list does not include evidentiary cases, as those are listed separately by category on this agenda under Evidentiary Cases.

A D J O U R N M E N T

17. EVIDENTIARY CASES

The Board Administrative Law Judges conduct evidentiary hearings in appeals that include, but are not limited to, adverse actions, medical terminations, demotions, discrimination, reasonable accommodations, and whistleblower complaints.

A. BOARD CASES SUBMITTED

These items have been taken under submission by the State Personnel Board at a prior meeting. Cases that are before the Board for vote will be provided under separate cover.

(1) **CASE NO. 05-1007EA**

Appeal from denial of discrimination complaint

Classification: Outside contractor

Department: Department of Transportation

Proposed decision rejected December 19, 2006.

Pending oral argument April 3, 2007, Sacramento.

Oral argument continued.

Oral argument heard July 10, 2007, Sacramento.

Case ready for decision by FULL Board.

(2) **CASE NO. 06-1138**

Appeal from dismissal

Classification: Correctional Lieutenant

Department: Department of Corrections and Rehabilitation

Proposed decision taken under submission July 24, 2007.

(3) **CASE NO. 06-0760A**

Appeal from rejection during probation

Classification: Parole Agent I (Adult Parole)

Department: Department of Corrections and Rehabilitation

Proposed decision rejected November 14, 2006.

Transcript prepared.

Pending oral argument February 6-7, 2007, Los Angeles.

Oral argument continued.

Pending oral argument May 8, 2007, Sacramento.

Oral argument continued.

Oral argument heard July 10, 2007, Sacramento.

Case ready for decision by FULL Board.

- (4) **CASE NO. 05-2888PA**
Appeal from dismissal
Classification: Staff Services Analyst (General)
Department: Department of Consumer Affairs

Petition for rehearing granted October 31, 2006.
Transcript prepared.
Pending oral argument March 2 2007, Sacramento.
Oral argument continued.
Oral argument heard June 5, 2007, Sacramento.
Case ready for decision by FULL Board.
- (5) **CASE NO. 05-1067A**
Appeal from dismissal
Classification: Investigator
Department: Department of Motor Vehicles

Proposed decision rejected January 9, 2007.
Transcript prepared.
Pending oral argument May 8, 2007, Sacramento.
Oral argument heard May 8, 2007.
Case ready for decision by FULL Board.
- (6) **CASE NO. 04-2919ERPA**
Appeal from discrimination and retaliation
Classification: Physician and Surgeon
Department: Department of Corrections and Rehabilitation

Petition for Rehearing granted February 20, 2007.
Transcript prepared.
Pending oral argument May 8, 2007, Sacramento.
Oral argument heard May 8, 2007.
Case ready for decision by FULL Board.

B. CASES PENDING

ORAL ARGUMENTS

These cases are on calendar to be argued at this meeting or to be considered by the Board in closed session based on written arguments submitted by the parties.

- (1) **CASE NO. 06-3023A**
Appeal from ten percent reduction in salary for three months
Classification: Psychiatric Technician
Department: Department of Corrections and Rehabilitation

- (2) **CASE NO. 06-1338A**
Appeal from rejection during probation
Classification: Industrial Relations Counsel III (Specialist)
Department: Department of Industrial Relations
- (3) **CASE NO. 06-2010A**
Appeal from medical termination
Classification: Administrative Support Coordinator II
Department: California State University, Los Angeles

C. CHIEF COUNSEL RESOLUTIONS

NONE

COURT REMANDS

This case has been remanded to the Board by the court for further Board action.

NONE

STIPULATIONS

These stipulations have been submitted to the Board for Board approval, pursuant to Government Code, section 18681.

NONE

D. ADMINISTRATIVE LAW JUDGE'S (ALJ) PROPOSED DECISIONS

PROPOSED DECISIONS

These are ALJ proposed decisions submitted to the Board for the first time.

- (1) **CASE NO. 03-2444E**
Appeal from denial of discrimination complaint
Classification: Correctional Officer
Department: Department of Corrections and Rehabilitation
- (2) **CASE NO. 06-2300**
Appeal from automatic resignation
Classification: Information Technology Consultant
Department: Humboldt State University
- (3) **CASE NO. 07-0319**
Appeal from five percent reduction in salary for three months
Classification: Correctional Officer
Department: Department of Corrections and Rehabilitation

- (4) **CASE NO. 07-0124**
Appeal from five percent reduction in salary for thirteen months
Classification: Parole Agent I
Department: Department of Corrections and Rehabilitation
- (5) **CASE NO. 03-1921E**
Appeal from denial of discrimination complaint
Classification: Office Assistant (Typing)
Department: Department of Corrections and Rehabilitation
- (6) **CASE NO. 07-0294**
Appeal from five percent reduction in salary for twelve months
Classification: Correctional Officer
Department: Department of Corrections and Rehabilitation
- (7) **CASE NO. 06-4075**
Appeal from dismissal
Classification: Correctional Officer
Department: Department of Corrections and Rehabilitation
- (8) **CASE NO. 05-1879**
Appeal from rejection during probationary period
Classification: Fire and Life Safety Officer I
Department: Department of General Services

PROPOSED DECISIONS TAKEN UNDER SUBMISSION AT PRIOR MEETING

These are ALJ proposed decisions taken under submission at a prior Board meeting, for lack of majority vote or other reason.

NONE

PROPOSED DECISIONS AFTER BOARD REMAND

NONE

PROPOSED DECISIONS AFTER SPB ARBITRATION

NONE

E. PETITIONS FOR REHEARING

ALJ PROPOSED DECISIONS ADOPTED BY THE BOARD

The Board will vote to grant or deny a petition for rehearing filed by one or both parties, regarding a case already decided by the Board.

- (1) **CASE NO. 06-1413P**
Appeal from five percent reduction in salary for six months
Classification: Registered Nurse
Department: Department of Corrections and Rehabilitation
- (2) **CASE NO. 05-1048P**
Appeal from suspension for three pay periods and demotion
Classification: Supervising State Park Ranger
Department: Department of Parks and Recreations

WHISTLEBLOWER NOTICE OF FINDINGS

The Board will vote to grant or deny a petition for rehearing filed by one or both parties, regarding a Notice of Findings issued by the Executive Officer under Government Code, section 19682 et seq. and Title 2, California Code of Regulations, section 56 et seq.

NONE

F. PENDING BOARD REVIEW

These cases are pending preparation of transcripts, briefs, or the setting of oral argument before the Board.

- (1) **CASE NO. 03-3412PA**
Appeal from rejection during probation
Classification: Correctional Counselor II (Supervisor)
Department: Department of Corrections and Rehabilitation

Petition for rehearing granted April 3, 2007.
Transcript prepared.
Pending oral argument July 10-11, 2007, Sacramento.
Oral argument continued.
Pending oral argument September 4-5, 2007, Sacramento.
- (2) **CASE NO. 06-3534A**
Appeal from constructive medical termination
Classification: Psychiatric Technician Assistant
Department: Department of Developmental Services

Proposed decision rejected June 19, 2007.
Pending transcript.

- (3) **CASE NO. 06-3014PA**
Appeal from punitive transfer
Classification: Correctional Sergeant
Department: Department of Corrections and Rehabilitation

Petition for rehearing granted July 10, 2007.
Transcript prepared.
- (4) **CASE NO. 06-3023A**
Appeal from ten percent reduction in salary for three months
Classification: Psychiatric Technician
Department: Department of Corrections and Rehabilitation

Proposed decision rejected March 2, 2007.
Transcript prepared.
Pending oral argument August 7-8, 2007, Los Angeles.
- (5) **CASE NO. 05-1285A**
Appeal from dismissal
Classification: Public Safety Dispatcher II
Department: Department of California Highway Patrol

Proposed decision rejected January 9, 2007.
Transcript prepared.
Pending oral argument June 5, 2007, Sacramento.
Oral argument continued.
Pending oral argument September 4-5, 2007, Sacramento.
- (6) **CASE NO. 06-1338A**
Appeal from rejection during probation
Classification: Industrial Relations Counsel III (Specialist)
Department: Department of Industrial Relations

Proposed decision rejected May 8, 2007.
Transcript prepared.
Pending oral argument August 7, 2007, Pasadena.
- (7) **CASE NO. 05-1432E**
Appeal from denial of sexual harassment complaint
Classification: Health Facilities Evaluator Nurse
Department: Department of Health Services

Proposed decision rejected June 5, 2007.
Transcript prepared.
Pending oral argument November 6-7, 2007, San Diego.

- (8) **CASE NO. 05-3327A**
Appeal from dismissal
Classification: Medical Technical Assistant
Department: Department of Corrections and Rehabilitation

Proposed decision rejected July 10, 2007.
Pending transcript.
- (9) **CASE NO. 06-0738A**
Appeal from dismissal
Classification: Correctional Sergeant
Department: Department of Corrections and Rehabilitation

Proposed decision rejected May 18, 2007.
Transcript prepared.
Pending oral argument September 4-5, 2007, Sacramento.
- (10) **CASE NO. 06-2010A**
Appeal from medical termination
Classification: Administrative Support Coordinator II
Department: California State University, Los Angeles

Proposed decision rejected May 8, 2007.
Transcript prepared.
Pending oral argument August 7, 2007, Pasadena.
- (11) **CASE NO. 07-1381A**
Appeal from dismissal
Classification: Correctional Sergeant
Department: Department of Corrections and Rehabilitation

Proposed decision rejected June 5, 2007.
Transcript prepared.
Pending oral argument October 2-3, 2007, Sacramento.
- (12) **CASE NO. 05-1043P**
Appeal from dismissal
Classification: Tax Counsel, Range D
Department: Board of Equalization

Petition for rehearing granted June 5, 2007.
Transcript prepared.
Pending oral argument October 2-3, 2007, Sacramento.

(13) PSC No. 06-03, CASE NO. 07-0806PA

Appeal from Executive Officer's disapproval of Unarmed Security Guard Services

Department: California Highway Patrol

Petition for rehearing granted May 8, 2007.

Pending oral argument September 4-5, 2007, Sacramento.

24. NON-EVIDENTIARY CASES

A. WITHHOLD APPEALS

Cases heard by a Staff Hearing Officer, a managerial staff member of the State Personnel Board or investigated by Appeals Division staff. The Board will be presented recommendations by a Staff Hearing Officer or Appeals Division staff for final decision on each appeal.

WITHHOLD FROM CERTIFICATION
CASES HEARD BY A STAFF HEARING OFFICER

NONE

WITHHOLD FROM CERTIFICATION
CASES NOT HEARD BY A STAFF HEARING OFFICER

(1) CASE NO. 06-0692

Classification: Tax Auditor

Department: Franchise Tax Board

Issue: Suitability; lack of integrity and good judgment.

(2) CASE NO. 06-0681N

Department: California Department of Corrections & Rehabilitation

Classification: Correctional Officer

Issue: Suitability; omission of pertinent information during the selection process.

(3) CASE NO. 06-1004N

Classification: Cadet, CHP

Department: California Highway Patrol

Issue: Suitability; omitted pertinent information.

(4) CASE NO. 06-1397N

Classification: California Highway Patrol

Department: Cadet, CHP

Issue: Suitability; omitted information and a negative employment record.

- (5) **CASE NO. 05-3291**
Classification: Correctional Officer
Department: California Department of Corrections & Rehabilitation
Issue: Suitability; one DUI in five years.
- (6) **CASE NO. 06-2499N**
Classification: Correctional Officer
Department: California Department of Corrections & Rehabilitation
Issue: Suitability; failure to supply information/documents needed to complete background investigation.
- (7) **CASE NO. 06-2095N**
Classification: Correctional Officer
Department: California Department of Corrections & Rehabilitation
Issue: Suitability; firearms prohibition.

B. MEDICAL AND PSYCHOLOGICAL SCREENING APPEALS

Cases heard by a Staff Hearing Panel comprised of a managerial staff member of the State Personnel Board and a medical professional. The Board will be presented recommendations by a Hearing Panel on each appeal.

- (1) **CASE NO. 05-4149**
Classification: Correctional Officer
Department: California Department of Corrections & Rehabilitation
Issue: The appellant does not meet the minimum psychological qualification standards for State peace officer employment under Government Code § 1031(f) due to his unstable work history, problems with acceptance of rules and regulations, irresponsibility, emotional maturity, lack of self-control.

**C. EXAMINATION APPEALS
MINIMUM QUALIFICATIONS
MERIT ISSUE COMPLAINTS**

Cases heard by a Staff Hearing Officer, a managerial staff member of the State Personnel Board or investigated by Appeals Division staff. The Board will be presented recommendations by a Staff Hearing Officer or Appeals Division staff for final decision on each appeal.

NONE

**D. RULE 211 APPEALS
 RULE 212 OUT OF CLASS APPEALS
 VOIDED APPOINTMENT APPEALS**

Cases heard by a Staff Hearing Officer, or a managerial staff member of the State Personnel Board. The Board will be presented recommendations by a Staff Hearing Officer for final decision on each appeal.

NONE

E. REQUEST TO FILE CHARGES CASES

Investigated by Appeals Division staff. The Board will be presented recommendations by Appeals Division staff for final decision on each request.

- (1) CASE NO. 06-0528N**
 Classification: SEIU Steward
 Department: Department of Motor Vehicles
 Issue: The charging party requests to file charges for violations of various subsections of Government Code § 19572.

PETITIONS FOR REHEARING CASES

NONE

SUBMITTED

1. TEACHER STATE HOSPITAL (SEVERELY), ETC.

Departments of Mental Health and Developmental Services. (Hearing held December 3, 2002.)

2. VOCATIONAL INSTRUCTOR (SAFETY) (VARIOUS SPECIALTIES)

Departments of Mental Health and Developmental Services. (Hearing held December 3, 2002.)

3. TELEVISION SPECIALIST (SAFETY)

The Department of Corrections proposes to establish the new classification Television Specialist (Safety) by using the existing Television Specialist class specification and adding "Safety" as a parenthetical to recognize the public aspect of their job, additional language will be added to the Typical Tasks section of the class specification and a Special Physical Characteristics section will be added. (Presented to Board March 4, 2003.)

4. HEARING – Personal Services Contract #04-03

Appeal of the California State Employees Association from the Executive Officer's April 15, 2004, Approval of Master Contracts between the California Department of Corrections and Staffing Solutions, CliniStaff, Inc., Staff USA, Inc., CareerStaff Unlimited, MSI International, Inc., Access Medical Staffing & Service, Drug Consultants, Infinity Quality Services Corporation, Licensed Medical Staffing, Inc., Morgan Management Services, Inc., Asereth Medical Services, and PrideStaff dba Rx Relief. (Hearing held August 12, 2004.)

5. HEARING

Proposed new and revised State Personnel Board Regulations effecting equal opportunity, discrimination complaints and reasonable accommodation policies and procedures. (Hearing held July 7, 2004.)

6. CASE NO. 05-1067A

Appeal from dismissal. Investigator, DMV. Department of Motor Vehicles. (Oral argument held May 8, 2007.)

7. CASE NO. 04-2919ERPA

Appeal from discrimination and retaliation. Physician & Surgeon, CF. Department of Corrections and Rehabilitation. (Oral argument held May 8, 2007.)

8. CASE NO. 05-2888PA

Appeal from dismissal. Staff Services Analyst (General). Department of Consumer Affairs. (Oral argument held June 5, 2007.)

9. HEARING – PROPOSED AMENDMENTS TO REGULATIONS CONCERNING PROCEDURES THAT APPLY TO COST SAVINGS PERSONAL SERVICES CONTRACTS UNDER GOVERNMENT CODE SECTION 19130(a) (Hearing held July 10, 2007.)

10. CASE NO. 05-4007EA

Appeal from denial of discrimination complaint. Outside contractor. Department of Transportation. (Oral argument held July 10, 2007.)

11. CASE NO. 06-0760A

Appeal from rejection during probation. Parole Agent I (Adult Parole). Department of Corrections and Rehabilitation. (Oral argument held July 10, 2007.)

12. PERSONAL SERVICES CONTRACT NO. 07-01. Appeal of the Department of the California Highway Patrol (CHP) from the Executive Officer's February 21, 2007, Disapproval of CHP's Personal Services Contracts for Custodial Services at the following offices: Torrance Area Office (RFP 078CP62001); Yolo Area Office (RFP 078CP6159); Burney Area Office (RFP 078CP5634R); Anaheim Area Office (RFP 078CP6171); Los Angeles Area Office (RFP 078CP6167); Monterey Park Area Office (RFP 078CP6170); Oceanside Area Office (RFP 078CP6141); Blythe Area Office (RFP 078CP6139); Santa Ana Area Office (RFP 078CP5905R); and Redwood City Area Office (RFP 078CP6143I). (Oral argument held July 10, 2007.)

NOTICE OF GOVERNMENT CODE SECTION 18671.1 RESOLUTION

Since Government Code section 18671.1 requires that cases pending before State Personnel Board Administrative Law Judges (ALJ's) be completed within six months or no later than 90 days after submission of a case, whichever is first, absent the publication of substantial reasons for needing an additional 45 days, the Board hereby publishes its substantial reasons for the need for the 45-day extension for some of the cases now pending before it for decision.

An additional 45 days may be required in cases that require multiple days of hearings, that have been delayed by unusual circumstances, or that involve any delay generated by either party (including, but not limited to, submission of written briefs, requests for settlement conferences, continuances, discovery disputes, pre-hearing motions). In such cases, six months may be inadequate for the ALJ to hear the entire case, prepare a proposed decision containing the detailed factual and legal analysis required by law, and for the State Personnel Board to review the decision and adopt, modify or reject the proposed decision within the time limitations of the statute.

Therefore, at its next meeting, the Board will issue the attached resolution extending the time limitation by 45 days for all cases that meet the above criteria, and that have been before the Board for less than six months as of the date of the Board meeting.

GOVERNMENT CODE SECTION 18671.1 RESOLUTION

WHEREAS, Section 18671.1 provides that, absent waiver by the appellant, the time period in which the Board must render its decision on a petition pending before it shall not exceed six months from the date the petition was filed or 90 days from the date of submission; and

WHEREAS, Section 18671.1 also provides for an extension of the time limitations by 45 additional days if the Board publishes substantial reasons for the need for the extension in its calendar prior to the conclusion of the six-month period; and

WHEREAS, the Agenda for the instant Board meeting included an item titled "Notice of Government Code section 18671.1 Resolution" which sets forth substantial reasons for utilizing that 45-day extension to extend the time to decide particular cases pending before the Board;

WHEREAS, there are currently pending before the Board cases that have required multiple days of hearing and/or that have been delayed by unusual circumstances or by acts or omissions of the parties themselves;

NOW, THEREFORE, BE IT RESOLVED AND ORDERED that the time limitations set forth in Government Code section 18671.1 are hereby extended an additional 45 days for all cases that have required multiple days of hearing or that have been delayed by acts or omissions of the parties or by unusual circumstances and that have been pending before the Board for less than six months as of the date this resolution is adopted.

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(Cal. 08/07/07)

TO: Members
State Personnel Board

FROM: State Personnel Board - Legislative Office

SUBJECT: LEGISLATION

The status of major legislation being followed for impact on Board programs and the general administration of the State Civil Service Merit System is detailed in the attached report.

Any legislative action that takes place after the printing of this report, which requires discussion with the Board, will be covered during the Board meeting.

Please contact me directly should you have any questions or comments regarding any bills that you may have an interest in. I can be reached at (916) 653-0453.

A handwritten signature in cursive script that reads 'Sherry A. Evans'.

Sherry A. Evans
Director of Legislation

Attachment

**STATE PERSONNEL BOARD
LEGISLATIVE TRACKING
REPORT
2007-08 SESSION**

Status as of July 25, 2007



BILL/ AUTHOR	BOARD POSITION	SUBJECT	STATUS OF BILL
AB 67 (Dymally)	SUPPORT	AB 67 amends the provisions contained in the Dymally-Alatorre Bilingual Services Act (Act) that require state agencies to conduct a biennial language survey and implementation plan and employ qualified bilingual staff when a significant language need is identified. The amendments proposed by this Bill standardize and define language in the Act, clarify the State Personnel Board's (SPB's) responsibility to establish bilingual fluency standards, and expand the SPB's ability to grant exemptions to the language survey and implementation plan.	07/11/2007-Read second time. To third reading. 07/11/2007-S THIRD READING 07/25/07 174 SEN THIRD READING FILE
AB 160 (Lieber)	Watch	Would establish the California Sentencing Commission, with specified membership and terms, to devise sentencing guidelines. The bill would also create a Judicial Advisory Committee composed of judges, as specified, to assist the commission. This bill contains other related provisions.	07/17/2007-Read second time, amended, and re-referred to Com. on APPR. 07/17/2007-S APPR. 08/20/07 Anticipated Hearing SEN APPR.
AB 174 (Price)	No Position	This bill would expand the remedies available to individuals who file discrimination complaints with the State Personnel Board by authorizing the State Personnel Board to award reasonable attorney's fees and costs.	07/09/2007-From APPR.: To APPR. SUSPENSE 07/09/2007-S APPR. SUSPENSE
AB 220 (Bass)	Watch	Would enact the Firefighters Procedural Bill of Rights Act to prescribe various rights of firefighters, defined as any firefighter employed by a public agency, including a firefighter who is a paramedic or emergency medical technician, with specified exceptions. The bill would prescribe rights related to, among others, political activity, interrogation, punitive action, and administrative appeals , with specified requirements imposed upon the employing agency and the imposition of a civil penalty for a violation thereof. The bill would also specify that reimbursement of funds by the state shall be limited to the actual costs associated with the act, as specified . This bill contains other related provisions and other existing laws.	07/11/2007-From committee: Do pass, and re-refer to Com. on APPR. Re-referred. (Ayes 3. Noes 2.) . 07/11/2007-S APPR. 08/20/07 Anticipated Hearing SEN APPR.
AB 295 (Lieu)	No Position	Would require specified state agencies to use additional separate collection categories and tabulations for other major Asian and Pacific Islander groups, including Bangladeshi, Fijian, Hmong, Indonesian, Malaysian, Pakistani, Sri Lankan, Taiwanese, Thai, and Tongan. This bill would also require that these specified state agencies update their data collection categories to match those used by the United States Census Bureau. This bill would further require a state agency, board, or commission that directly or by contract collects demographic	07/16/2007-From APPR.: To APPR. SUSPENSE 07/16/2007-S APPR. SUSPENSE

		data, include data on specified collection categories and tabulations in any demographic report on ancestry or ethnic origins of Californians that it publishes or releases on or after July 1, 2009. This bill would further require a state agency, board, or commission to make the collected data available to the public, in accordance with state and federal law, except for personal identifying information, which shall be deemed confidential.	
<u>AB 392</u> (<u>Lieu</u>)	Watch	Would require a qualified employer to allow a qualified employee that is a spouse of a qualified member of the Armed Forces, National Guard, or Reserves to take up to 10 days of unpaid leave during a qualified leave period, as provided. This bill contains other related provisions.	07/11/2007-From committee: Do pass, and re-refer to Com. on APPR. Re-referred. (Ayes 4. Noes 0.) . 07/11/2007-S APPR. 08/20/07 Anticipated Hearing SEN APPR.
<u>AB 503</u> (<u>Swanson</u>)	Watch	Would require the California Research Bureau to conduct a study, to be submitted to the Legislature by June 30, 2008, on issues related to a requirement that state and local agencies provide eight hours' written notice to employees who are required to work overtime. The bill would require the study to address the impacts of such a requirement on both employers and employees .	06/14/2007-Referred to Com. on RLS. 06/14/2007-S RLS.
<u>AB 671</u> (<u>Beall</u>)		Would make legislative findings and declarations regarding the state's responsibility for the well-being of foster youth and former foster youth. The bill would require the State Personnel Board to establish an Emancipated Foster Youth Examination and Appointment Program to promote the hiring of qualified foster youth in specified entry level positions in any state agency or department as determined by the board. The bill would require the board or its designee to conduct competitive examinations to determine the qualifications and readiness of emancipated foster youths for state employment. It would require that all examination appointments to positions under the program be made on a temporary and provisional basis, and would provide that, with the approval of the board, a candidate who successfully completes this temporary period may be appointed, without further examination, to an appropriate position in which civil service status may accumulate. The bill would allow applicants for and candidates in the program examination process to appeal specified actions . This bill contains other related provisions and other existing laws.	07/16/2007-From APPR.: To APPR. SUSPENSE 07/16/2007-S APPR. SUSPENSE

<u>AB 721</u> (<u>Maze</u>)	Watch	Would provide that, notwithstanding any other provision of the act, when a Member of the Legislature requests a public record from a state agency, the state agency shall make the determination and notification required by these provisions immediately and in no event later than 3 business days after receipt of the request.	06/01/2007-Failed Deadline pursuant to Rule 61(a)(5). Last location was APPR. SUSPENSE FILE 06/01/2007-A 2 YEAR
<u>AB 890</u> (<u>Aghazarian</u>)	Watch	Would create the Commission on Peace Officer Standards and Training, which would succeed to those functions.	07/10/2007-From committee: Do pass, and re-refer to Com. on APPR. Re-referred. (Ayes 4. Noes 0.) . 07/10/2007-S APPR. 08/20/07 <i>Anticipated Hearing SEN APPR.</i>
<u>AB 933</u> (<u>Jeffries</u>)	No Analysis Required	Would revise these provisions. The bill would also delete obsolete statutory provisions relating to the Governor, Members of the Legislature, and other statewide elected officers.	07/20/2007-Senate amendments concurred in. To enrollment. 07/20/2007-A ENROLLMENT
<u>AB 1393</u> (<u>Leno</u>)	Watch	Would as of July 1, 2009, require any state agency that publishes an Internet Web site to include on the homepage of that site specified information that is not exempt from disclosure under the act about how to contact the agency, how to request records under the act, and a form for submitting online requests for records. It would authorize any person to bring an action to enforce the duty of a state agency to post this information and would provide for penalties including monetary awards to be paid by the agency, with specified provisions to become operative on January 1, 2009. This bill contains other related provisions.	07/17/2007-Read second time, amended, and re-referred to Com. on APPR. 07/17/2007-S APPR. 08/20/07 <i>Anticipated Hearing SEN APPR.</i>
<u>AB 1496</u> (<u>Swanson</u>)	No Position	Would require any city or county , except a charter city or county, or a charter city and county that provides a civil service system of employment in its charter , that adopts a civil service system or its equivalent, as specified, to provide for the classification of all employment positions. The bill would allow for the exclusion from that classification requirement, substitute and short-term employees, as defined, and apprentices or professional experts employed on a temporary basis for a specific project. Further, prior to the hiring of any short-term employee, the bill would require the legislative body of a city or county to, at a public meeting, report on the specifics of that hiring and certify the ending date of service. The bill would require any existing system to conform to the above-described requirements by March 1, 2008. The bill would exempt from these provisions the continued	07/11/2007-In committee: Set, first hearing. Testimony taken. Further hearing to be set. 07/11/2007-S L. GOV.

		employment or classification of a county or city employee who is appointed or deputized as a reserve or auxiliary peace officer, as defined, or who is a volunteer or reserve firefighter in the employ of a regularly organized fire department of a county or city.	
<u>AB 1648</u> (<u>Leno</u>)	Watch	Would provide that the confidentiality of peace officer records, as specified, does not apply to specified government bodies that review the investigations, findings, or employment actions of a department or agency. The bill would make specified information in certain disciplinary records pertaining to peace officers available to the public, as specified. This bill contains other related provisions and other existing laws.	05/02/2007-Failed Deadline pursuant to Rule 61(a)(2). Last location was PUB. S. 05/02/2007-A 2 YEAR
<u>AB 1668</u> (<u>Leno</u>)	Watch	Would require the Director of Technology Services, in conjunction with the State Chief Information Officer and other specified state entities, to implement a project examining the use of an open file format with no more than 3 state agencies or departments. This bill would further require the State Chief Information Officer, in conjunction with other specified state entities, to report on the results of the project no later than January 10, 2009. This bill would also require the Department of General Services, in consultation with the State Chief Information Officer, to consider specific modifications to the standards used for the state to acquire information technology and to report its findings to the Legislature no later than October 1, 2008.	06/01/2007-Failed Deadline pursuant to Rule 61(a)(5). Last location was APPR. SUSPENSE 06/01/2007-A 2 YEAR
<u>AB 1702</u> (<u>Blakeslee</u>)	SUPPORT	Would authorize the Department of Transportation to conduct competitive examinations on a position-specific basis for specified managerial classifications as agreed to by the State Personnel Board, as specified. The bill would also make legislative findings and declarations with regard to a related demonstration project. This bill contains other related provisions and other existing laws.	07/11/2007-Read second time. To third reading. 07/11/2007-S THIRD READING 07/25/07 193 SEN THIRD READING FILE
<u>ACA 1</u> (<u>Price</u>)	Watch	Would assign the responsibility for adjusting boundary lines of Senate, Assembly, congressional, and State Board of Equalization districts to a commission that , subject to specified conditions, consists of 11 members, including the 9 public members of the Milton Marks "Little Hoover" Commission on California State Government Organization and Economy and 2 additional persons appointed by those 9 members . It would require the Legislature to establish, by statute, procedures to ensure compliance with specified requirements for membership on the commission. This bill contains other related provisions.	06/21/2007-Re-referred to Com. on APPR. 06/21/2007-A APPR.

<u>SB 26</u> (<u>Simitian</u>)	Neutral	This bill would require that demographic data collection by race be structured in a manner that allows the surveyed individual to select more than one race. A single category labeled "multi-racial" would be prohibited.	07/11/2007-Set, first hearing. Referred to APPR. suspense file. 07/11/2007-A APPR. SUSPENSE FILE
<u>SB 519</u> (Committee on Governmental Organization)	Neutral	Would authorize the calling of a special meeting to provide for an interim executive officer of a state body upon the death, incapacity, or vacancy in the office of the executive officer.	07/20/2007-Chaptered by the Secretary of State, Chapter Number 92, Statutes of 2007 07/20/2007-S CHAPTERED
<u>SB 721</u> (<u>Ashburn</u>)	Watch	By January 1, 2010, this bill would require every state agency to establish and implement a succession plan, as defined. By January 1, 2012, the bill would require every state agency to report to the Legislature on the success or failure of the implemented succession plan, as specified.	07/18/2007-Set, first hearing. Referred to APPR. suspense file. 07/18/2007-A APPR. SUSPENSE FILE
<u>SB 870</u> (<u>Ridley-Thomas</u>)	Neutral with Amendments	Would require an adverse action against an excluded employee, as defined, to commence within one year of the cause for discipline.	06/27/2007-Set, first hearing. Referred to APPR. suspense file. 06/27/2007-A APPR. SUSPENSE FILE
<u>SB 1019</u> (<u>Romero</u>)	Support if amended	Would state the intent of the Legislature to abrogate the California Supreme Court decision in Copley Press, Inc. v. Superior Court and to restore public access to meetings and hearings regarding peace officer discipline that were open prior to the Copley Press decision. This bill contains other related provisions.	06/26/2007-Set, first hearing. Held in committee without recommendation. 06/26/2007-A PUB. S.

STATE PERSONNEL BOARD

NON-HEARING CALENDAR

RE: BOARD DATE AUGUST 7, 2007

(Cal. 08/07/07)

MEMO TO : STATE PERSONNEL BOARD

FROM : MIKE STRAZZO, Merit Employment and
Technical Resources Division

SUBJECT : Non-Hearing Calendar Items for Board Action

NONE PRESENTED

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(Cal. 08/07/07)

MEMO TO : STATE PERSONNEL BOARD

FROM : MIKE STRAZZO, Merit Employment and
Technical Resources Division

SUBJECT : Staff Calendar Items for Board Information

NONE PRESENTED